

Department of Energy

§ 1046.3

(and predecessor agencies) rulings, regulations, interpretations, and decisions on appeals, and any judicial determinations being relied upon to support the appeal. A copy of the letter containing the determination being appealed shall be submitted with the appeal.

(d) *Receipt of appeal.* An appeal shall be considered to be received upon receipt by the DOE Director of Security Affairs.

(e) *Action within 60 working days.* The appeal authority shall act upon the appeal within 60 working days of its receipt. If no determination on the appeal has been issued at the end of the 60-day period, the requester may consider his or her administrative remedies to be exhausted and may seek a review by the Interagency Security Classification Appeals Panel (ISCAP). When no determination can be issued within the applicable time limit, the appeal shall nevertheless continue to be processed. On expiration of the time limit, DOE shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be issued, and of his or her right to seek further review by the ISCAP. Nothing in this subpart shall preclude the appeal authority and the requester from agreeing to an extension of time for the decision on an appeal. The DOE Director of Security Affairs shall confirm any such agreement in writing and shall clearly specify the total time agreed upon for the appeal decision.

(f) *Form of action on appeal.* The DOE Director of Security Affairs' action on an appeal shall be in writing and shall set forth the reason for the decision. The Department may refuse to confirm or deny the existence or nonexistence of requested information whenever the fact of its existence or nonexistence is itself classified under E.O. 12958.

(g) *Right of final appeal.* The requester has the right to appeal a final Department decision or a failure to provide a determination on an appeal within the allotted time to the ISCAP for those appeals dealing with NSI. In cases where NSI documents also contain RD and FRD, the RD and FRD portions of the document shall be deleted prior to forwarding the NSI and

unclassified portions to the ISCAP for review.

PART 1046—PHYSICAL PROTECTION OF SECURITY INTERESTS

Subpart A—General

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APPENDIX A TO SUBPART B TO PART 1046—
MEDICAL AND PHYSICAL FITNESS QUALIFICATION STANDARDS

APPENDIX B TO SUBPART B TO PART 1046—
TRAINING AND QUALIFICATION FOR SECURITY SKILLS AND KNOWLEDGE

AUTHORITY: Sec. 2201, Pub. L. 83-703, 68 Stat. 919 (42 U.S.C. 2011 *et seq.*); sec. 7151, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*)

SOURCE: 58 FR 45791, Aug. 31, 1993, unless otherwise noted.

Subpart A—General

§ 1046.1 Purpose.

The purpose of this part is to set forth Department of Energy, hereinafter "DOE," security policies and procedures regarding the physical protection of security interests.

§ 1046.2 Scope.

This part applies to DOE contractor employees at Government-owned facilities, whether or not privately operated.

§ 1046.3 Definitions.

For the purposes of this part:

Contractor. The term "contractor" includes subcontractors at all tiers.

Defensive combative personnel. Security police officers other than offensive combative personnel.

Designated physician. An occupational medical physician who is recommended